STATE OF VERMONT

HUMAN SERVICES BOARD

In re)	Fair	Hearing	No.	R-02/10-81
)				
Appeal of)				

INTRODUCTION

The petitioner appeals the decision by the Department for Children and Families, Economic Services Division terminating his essential person (EP) benefits. The issue is whether the Department correctly calculated petitioner's income and deductible expenses. The following facts are not in dispute.

FINDINGS OF FACT

- 1. The petitioner and his wife live together. He is disabled and his wife provides medically necessary personal care and homemaker services for him.
- 2. On October 5, 2009 (based on an application the petitioner filed on September 28, 2009) the Department granted the petitioner essential person benefits of \$435 a month. The benefit amount was based on the petitioner's only reported income from Social Security of \$694 a month (see infra).

- 3. In January 2010 the Department learned that the petitioner also had income from a VA pension \$628 a month. On January 27, 2010 the Department notified the petitioner that his essential person benefits would close effective March 1, 2010.
- 4. At the hearing in this matter, held by phone on March 5, 2010, the petitioner argued that it was unfair to base eligibility on gross income because his household expenses meet or exceed his income.

ORDER

The Department's decision is affirmed.

REASONS

The essential person (EP) program regulations provide that all the income of "assistance group" must be counted together. W.A.M. \$ 2782. The EP payment level is equal to the maximum SSI payment to a couple. W.A.M. \$ 2770. Currently, that amount is \$1,109.88. See Procedures Manual P-2740.

The regulations further provide that all but a standard \$20 "disregard" of the petitioner's Social Security and VA benefits must be counted in determining his EP eligibility.

The only other exceptions and deductions in the regulations

apply to either earned income or the income of the disabled spouse, herself. See W.A.M. § 2786.

In this case there is no dispute that the Department correctly determined that the petitioner's net countable income (\$1,303) exceeds the maximum allowable in determining eligibility for EP benefits. Thus, the Board is bound to affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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